
UTAH LABOR COMMISSION

TROY R. BATTE,

Petitioner,

vs.

**URS CORP (LSI) and INSURANCE CO.
OF THE STATE OF PENNSYLVANIA,**

Respondents.

**ORDER REVERSING ALJ'S
DECISION AND APPROVING
COMMUTATION AGREEMENT**

Case No. 05-0684

Troy Batte, URS Corp. and Insurance Co. of the State of Pennsylvania ask the Utah Labor Commission to review Administrative Law Judge Hann's rejection of their "Compensation Agreement and Order" regarding Mr. Batte's claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

BACKGROUND AND ISSUES PRESENTED

Through counsel, Mr. Batte filed an application for hearing with the Commission's Adjudication Division, claiming medical and disability benefits for injury to his cervical spine caused by a December 18, 2003, work accident at URS. Judge Hann held an evidentiary hearing on Mr. Batte's claim and then referred the matter to a medical panel. After receiving the panel's report, Judge Hann issued her decision on September 21, 2006, awarding permanent partial disability compensation based on a 21% impairment rating, plus temporary total disability compensation and medical benefits. The parties did not appeal Judge Hann's decision, which therefore became final on October 23, 2006.

On October 31, 2006, the parties submitted a "Compensation Agreement and Order" to Judge Hann. In this agreement, the parties stated they each disagreed with some aspects of Judge Hann's decision, but agreed to resolve these disagreements by making some adjustments to the terms of the decision. Specifically, the parties agreed that Mr. Batte's permanent partial disability compensation would be increased to reflect a 23% impairment rating and that the parties would waive their respective rights to interest and discount on the permanent partial disability compensation payment. The parties further agreed that all other provisions of Judge Hann's decision would remain in effect.

In an order issued December 4, 2006, Judge Hann rejected the parties' agreement, stating: "[while URS] disagrees with the ruling and [Mr. Batte] has agreed to accept less than was ordered, the [ALJ] has no jurisdiction to approve the agreement or modify the previously issued order as no appeal of the final order was filed."

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On December 12, 2006, the parties jointly asked the Commission to review Judge Hann's order rejecting the parties' agreement. In requesting review, the parties point out that, contrary to Judge Hann's order, **both** parties disagreed with Judge Hann's prior award of permanent partial disability compensation. The parties also pointed out that their proposed agreement provided more permanent partial disability compensation to Mr. Batte than did Judge Hann's award.

DISCUSSION AND CONCLUSION OF LAW

The first issue before the Commission is whether the Commission or its ALJs have authority to approve an agreement of the parties altering an award of workers' compensation benefits after that award has already become final. The Commission believes that such authority is granted by §34A-2-420(4)(b) of the Utah Workers' Compensation Act: "... an administrative law judge shall review and may approve the agreement of the parties to enter into a full and final . . . commutation and settlement of reasonable future medical, disability, or death benefit entitlements . . . by means of a lump sum payment, structured settlement, or other appropriate payout."

Black's Law Dictionary, Rev. 4th Ed., defines "commutation as "alteration; change; substitution; the act of substituting one thing for another." Nothing in §34A-2-420(4) limits the Commission's authority to approve commutation of benefits to the period before an award has become final. Of course, this authority to approve commutation of benefits is subject to the Commission's over-arching responsibility to see that injured workers receive the benefits to which they are entitled under Utah workers' compensation system. But in appropriate cases, where a proposed commutation is consistent with the protections and purposes of the workers' compensation system, it may be approved even after an award has been entered and becomes final.

Having concluded that authority exists to approve the parties' agreement in this case, the Commission now turns to whether the agreement should be approved. The Commission notes that Mr. Batte has been represented by his own attorney throughout this matter. Mr. Batte, on advice of counsel, has joined with URS and its insurance carrier in requesting approval of the agreement. The agreement leaves Judge Hann's awards of medical benefits and temporary total disability compensation in effect, and increases the amount of permanent partial disability compensation payable to Mr. Batte. While Mr. Batte renounces his right to interest as part of the agreement, the Commission views that provision as a reasonable accommodation when the agreement is viewed as a whole.

ORDER

The Commission finds the parties' commutation agreement in this matter to be reasonable, and consistent with the purposes and protections of the Utah Workers' Compensation Act. Pursuant to the authority granted under §34A-2-420(4) of the Utah Workers' Compensation Act, the

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Commission hereby approves the parties' "Compensation Agreement" of October 27, 2006.

It is so ordered.

Dated this 20th day of March, 2007.

Sherrie Hayashi
Utah Labor Commissioner